

### ***Terminal Disclaimer***

A terminal disclaimer is enclosed. This should obviate the double patenting rejection.

### ***Obviousness***

Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either United States Patent No. 5,916,664 ("Rudy") or 6,219,867 ("Yates").

### **Rudy Does Not Disclose Claim Limitations**

Rudy discloses a cushion made of multiple fluid-filled cells. The cell walls in Rudy are said to be elastomeric. The cells of Rudy are filled with a liquid such as captive gases such as nitrogen and non-polar large molecules, alone or in combination with air. The elastomeric walls of the Rudy cushion may be ials selected from: high percentage nitrile rubber, halogenated butyl rubber, polyurethane, polyester elastomer, fluoroelastomer, chlorinated polyethylene, polyvinyl chloride, chlorosulfonated polyethylene, polyethylene/ethylene vinyl acetate copolymer, neoprene, butadiene acrylonitrile rubber, butadiene styrene rubber, ethylene propylene polymer, natural rubber, high strength silicone rubber, low density polyethylene, adduct rubber, sulfide rubber, methyl rubber, and thermoplastic rubber.

Rudy does NOT disclose a cushion made from a non-flowable gelatinous elastomer material (such as an A-B-A triblock copolymer selected from the group consisting of SEEPS, SEPS, and SEBS plasticized with an oil) which Applicant has claimed.

Rudy does NOT disclose a plurality of non-intersecting-columnar elastomeric members, at least some of said non-intersecting-columnar members being free from intersection with walls of other members. In Rudy, each cell has at least one wall intersecting with the wall of another cell. No walls of Rudy stand alone.

Rudy does not disclose at least some of said column members exhibiting a characteristic of compression instability in response to being subjected to force exerted on them by a cushioned object. Rudy discloses a traditional fluid-filled cellular cushion, which is highly stable and does not have wall instability as Applicant has claimed.

#### **Yates Does Not Disclose Claim Limitations**

Yates discloses an elastomeric block gel pad with an interior chamber, the chamber containing a thixotropic gel.

Yates does NOT disclose a plurality of non-intersecting-columnar elastomeric members, at least some of said non-intersecting-columnar members being free from intersection with walls of other members. In Yates, each chamber has at least one wall shared with another chamber.

Yates does not disclose at least some of said column members exhibiting a characteristic of compression instability in response to being subjected to force exerted on them by a cushioned object. Yates discloses a traditional fluid-filled cushion that exhibits conformity, not compression instability.

Although Yates suggests using elastomeric block gels, Yates does not teach how a triblock copolymer would be plasticized to create a cushioning effect in a non-flowable gel. But such is taught by Applicant and in the applications to which Applicant claims priority.

#### **Rudy and Yates Are Not Prior Art**

Rudy published in 1999 and Yates published in 2001; but Applicant has claimed priority back to 1996. As Applicant's priority date predates Rudy and Yates, Rudy and Yates should be withdrawn as references.

#### **Reiteration of Commercial Success**

Applicant has licensed the technology claimed in this patent application, specifically a cushioning element that has a non-flowable gelatinous elastomer material, and compression

unstable gel column members that achieve cushioning, for the amount of \$500,000. The commercial success arises from licensing of the technology that Applicant has claimed in this patent application. The commercial success that has accrued to Applicant is not a result of product sales; rather it arises from a technology sale that is covered by the claims of the patent application.

### ***Conclusion***

In view of the foregoing, and in summary, Applicant believes that all issues and points of the Examiner's Office Action have been addressed in a sincere effort to advance prosecution of this Application. Applicant respectfully requests reconsideration and allowance of the pending claims.

Please debit Deposit Account No. 50-0581 for any additional fees.

Dated this 12 day of April, 2004.

Respectfully submitted,



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